

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Recordkeeping for Sources Exempt from Air Permitting Requirements
(LAC 33:III.501.B.2.e) (AQ367)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.501.B.2.e (AQ367).

R.S. 30:2054(B)(2)(b)(ix) and LAC 33:III.501.B.2.d establish an exemption from the requirement to obtain an air permit for certain very small sources of air emissions. This rule will require owners or operators of such sources to determine and maintain records of potential criteria and toxic air pollutant emissions.

In accordance with LAC 33:III.501.B.2.d, the requirement to obtain an air permit does not apply to any source that is not a Part 70 source, as defined in LAC 33:III.502, and for which facility-wide potential emissions are less than:

- 5 tons per year for each criteria pollutant as defined by the Clean Air Act;
- 15 tons per year of all such defined pollutants combined; and
- the minimum emission rate (MER) for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51.

At present, LAC 33:III.501.B.2.d does not expressly require the owner or operator of such a source to determine and maintain records of potential criteria and toxic air pollutant emissions to verify eligibility. However, R.S. 30:2054(B)(2)(b)(ix) provides that:

[T]he secretary may adopt, promulgate, and enforce standards, limitations, and other regulations applicable to sources which are not required to obtain a permit.

* * *

The standards or regulations may include the requirement to determine, document, and maintain records to demonstrate the potential or actual emissions of the facility.

This rule will require owners or operators of sources exempt from the requirement to obtain an air permit per LAC 33:III.501.B.2.d to determine and maintain records of potential criteria and toxic air pollutant emissions consistent with the authority provided by the statute. This rule will also require such owners or operators to reassess and document any change in potential emissions of the aforementioned pollutants prior to effecting a modification or

otherwise increasing the production rate or hours of operation above the values previously used to determine potential emissions. The basis and rationale for this rule are to require owners or operators of sources exempt from the requirement to obtain an air permit per LAC 33:III.501.B.2.d to determine and maintain records of potential criteria and toxic air pollutant emissions. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

This Rule has no known impact on poverty as described in R.S. 49:973.

This Rule has no known impact on providers as described in HCR 170 of 2014.

A public hearing will be held on December 28, 2016, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ367. Such comments must be received no later than January 4, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ367. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Baratavia Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§501. Scope and Applicability

A. - B.2.d.iii. ...

e. Recordkeeping for Sources Exempt from Permitting Requirements

i. The owner or operator of a source which is not required to obtain a permit per LAC 33:III.501.B.2.d shall determine and maintain records of potential criteria and toxic air pollutant emissions from such source.

ii. The owner or operator shall reassess and document any change in potential criteria and toxic air pollutant emissions from the source prior to effecting a *modification* as defined in LAC 33:III.111 or otherwise increasing the production rate or hours of operation above the values previously used to determine potential emissions.

iii. For purposes of this exemption, potential emissions shall mean the emissions the source is capable of emitting considering all control measures in place, utilized, and properly maintained; historical practices, including hours of operation; and the number of employees at the source.

B.3. - C.14. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002),

amended by the Office of Environmental Assessment, LR 31:1063 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 32:1842 (October 2006), LR 33:2082 (October 2007), LR 33:2626 (December 2007), LR 35:461 (March 2009), LR 35:2351 (November 2009), LR 37:1145, 1148 (April 2011), LR 37:1391 (May 2011), LR 37:3221, 3233 (November 2011), repromulgated LR 37:3507 (December 2011), amended by the Office of the Secretary, Legal Division, LR 43:**.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

LOG #: AQ367

| | | | |
|-----------------------------|---|-------------------------|---|
| Person Preparing Statement: | <u>Bryan D. Johnston</u> | Dept.: | <u>Environmental Quality</u> |
| Phone: | <u>(225) 219-3450</u> <u>bryan.johnston@la.gov</u> | Office: | <u>Environmental Services</u> |
| Return Address: | <u>602 North Fifth Street</u> <u>Baton Rouge, LA 70802</u> | Rule Title: | <u>Recordkeeping for Sources Exempt from Air Permitting Requirements (LAC 33:III.501.B.2.e)</u> |
| | | Date Rule Takes Effect: | <u>Upon Promulgation</u> |

SUMMARY

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule change will require owners or operators of sources exempt from the requirement to obtain an air permit to determine and maintain records of potential criteria and toxic air pollutant emissions. However, since these owners and operators are currently exempt, they would have already calculated the potential emissions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule. Owners or operators of sources exempt from the requirement to obtain an air permit per statute and rule will be affected by the proposed rule. However, there should be no compliance-related costs, workload adjustments, or additional administrative obligations required to comply with the proposed rule, as the owner or operator of an exempt source should have already calculated potential criteria and toxic air pollutant emissions in order to verify eligibility for the exemption.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Herman Robinson, General Counsel
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

R.S. 30:2054(B)(2)(b)(ix) and LAC 33:III.501.B.2.d establish an exemption from the requirement to obtain an air permit for certain very small sources of air emissions. This rule will require owners or operators of such sources to determine and maintain records of potential criteria and toxic air pollutant emissions.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

In accordance with LAC 33:III.501.B.2.d, the requirement to obtain an air permit does not apply to any source that is not a *Part 70 source*, as defined in LAC 33:III.502, and for which facility-wide potential emissions are less than:

- 5 tons per year for each criteria pollutant as defined by the Clean Air Act;
- 15 tons per year of all such defined pollutants combined; and
- the minimum emission rate (MER) for each toxic air pollutant established by Tables 51.1 and 51.3 of LAC 33:III.Chapter 51.

At present, LAC 33:III.501.B.2.d does not expressly require the owner or operator of such a source to determine and maintain records of potential criteria and toxic air pollutant emissions to verify eligibility. However, R.S. 30:2054(B)(2)(b)(ix) provides that:

[T]he secretary may adopt, promulgate, and enforce standards, limitations, and other regulations applicable to sources which are not required to obtain a permit.

* * *

The standards or regulations may include the requirement to determine, document, and maintain records to demonstrate the potential or actual emissions of the facility.

This rule will require owners or operators of sources exempt from the requirement to obtain an air permit per LAC 33:III.501.B.2.d to determine and maintain records of potential criteria and toxic air pollutant emissions consistent with the authority provided by the statute.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No, the proposed rule will not result in any increase in the expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) ___ Yes. If yes, attach documentation.

(b) ____ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

There is no anticipated increase or decrease in costs to state agencies as a result of the proposed rule.

| COSTS | FY 16-17 | FY 17-18 | FY 18-19 |
|--------------------------------------|----------|----------|----------|
| PERSONAL SERVICES | -0- | -0- | -0- |
| OPERATING EXPENSES | -0- | -0- | -0- |
| PROFESSIONAL SERVICES | -0- | -0- | -0- |
| OTHER CHARGES | -0- | -0- | -0- |
| EQUIPMENT | -0- | -0- | -0- |
| TOTAL | -0- | -0- | -0- |
| MAJOR REPAIR & CONSTR. POSITIONS (#) | -0- | -0- | -0- |

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There is no anticipated increase or decrease in costs associated with the proposed rule. No increase or reduction in workload or additional paperwork is anticipated.

3. Sources of funding for implementing the proposed rule or rule change.

| SOURCE | FY 16-17 | FY 17-18 | FY 18-19 |
|-----------------------|----------|----------|----------|
| STATE GENERAL FUND | -0- | -0- | -0- |
| AGENCY SELF-GENERATED | -0- | -0- | -0- |
| DEDICATED | -0- | -0- | -0- |
| FEDERAL FUNDS | -0- | -0- | -0- |
| OTHER (Specify) | -0- | -0- | -0- |
| TOTAL | -0- | -0- | -0- |

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

No funds are required to implement the proposed action.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No impact on local governmental units is anticipated, including adjustments in workload and paperwork requirements.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

There will be no costs or savings to local governmental units, so no funding sources will be affected.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

No increase or decrease in revenues to state or local governmental units will be realized.

| REVENUE INCREASE/DECREASE | FY 16-17 | FY 17-18 | FY 18-19 |
|---------------------------|----------|----------|----------|
| STATE GENERAL FUND | -0- | -0- | -0- |
| AGENCY SELF-GENERATED | -0- | -0- | -0- |
| RESTRICTED FUNDS* | -0- | -0- | -0- |
| FEDERAL FUNDS | -0- | -0- | -0- |
| LOCAL FUNDS | -0- | -0- | -0- |
| TOTAL | -0- | -0- | -0- |

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

No increase or decrease in revenues will be realized.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Owners or operators of sources exempt from the requirement to obtain an air permit per R.S. 30:2054(B)(2)(b)(ix) and LAC 33:III.501.B.2.d will be affected by the proposed action. However, there should be no compliance-related costs, workload adjustments, or additional administrative obligations required to comply with the proposed action. The owner or operator of an exempt source should have already calculated potential criteria and toxic air pollutant emissions in order to verify eligibility for the exemption.

B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No impact on receipts or income of the affected persons or non-governmental groups is expected.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no effect on competition or employment in the public or private sector.